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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1997

HAITI

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Introduction

Background

1. The State of Haiti ratified the Convention on the Rights of the Child in 1994. In so doing, it took a decision to systematically orient its policies towards the integration and special protection of children, who now account for 40 per cent of the total population of the country.[1] That choice also involves certain obligations to the United Nations, of which Haiti is a member.

2. Two years after ratification of the Convention, for example, States parties must submit to the Committee on the Rights of the Child, through the United Nations Secretary-General, a report on the measures they have adopted to give effect to the rights recognized in the Convention,[2] obstacles encountered and progress made, as well as any developments that are planned.

Aims of the report

3. For the Committee, the reporting process provides an important opportunity to conduct a comprehensive review of the various measures undertaken to harmonize domestic law and policy with the Convention and to monitor progress made in the enjoyment of the rights in question. It also helps to encourage and facilitate popular participation and public scrutiny of government policies.[3]

4. Although this report has been prepared to enable the State of Haiti to fulfil its commitments towards the international community, its chief interest lies in the provision of practical data and information that will make it possible to evaluate government measures, explain any shortcomings and open up perspectives for systematic State action in the area of children's rights.

Methodology and analytical approach

5. The approach adopted in this report is highly analytical. The basic guiding principle has been the requirement to gain an understanding of all factors relating to each measure adopted by the Government in implementation of the Convention. Generally speaking, therefore, for each measure adopted, the aim has been to assess its effectiveness, any constraints and their causes, future developments and projects currently under way with a view to eliminating those constraints and enhancing the general standard of intervention.

6. The report is divided into six chapters (in addition to the introduction and conclusion), which have been prepared in accordance with the Committee's general guidelines. Chapter I describes and analyses the general measures of implementation of the Convention, including its incorporation into Haiti's domestic law, dissemination, the definition of the child and general principles (non-discrimination, the child's best interests, the right to life and respect for the views of the child).

7. Chapter II provides an analysis and assessment of children's civil rights and freedoms in Haiti. Chapter III deals with the child's family environment and alternative care. The next two chapters concern children's health, welfare and education, and leisure and cultural activities. The sixth and final chapter addresses special protection measures for children in the areas of justice, violence and other forms of exploitation suffered by Haitian children.

8. The conclusion presents the overall context of Haiti's implementation of the Convention, summarizes the progress made since ratification and the difficulties and obstacles in the way of State action, and describes the prospects for the systematic implementation of the Convention.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Legislative measures

9. The State of Haiti ratified the Convention on the Rights of the Child in December 1994, thereby becoming a State party to the Convention, which it subsequently published in *Le Moniteur*, the official gazette of the Republic of Haiti, on 7 July 1995.

10. By these two acts, the Convention was officially incorporated into Haitian law. According to article 276-2 of the Constitution, "Once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them". Consequently, all the provisions of the Convention on the Rights of the Child can be fully invoked before the courts.

11. In addition to this formal incorporation of the Convention into Haitian law, other specific measures have been taken to implement each of the provisions of the Convention. The most important of the Government's legislative measures in this regard is the adoption of the Children's Code, which is still pending.

12. Draft legislation was submitted by a parliamentary commission in 1998, but in view of the importance of the issue, the Government opted to take time to discuss the contents with civil society and bring the draft into line with the Convention itself. A further obstacle creating additional delay has been the prolonged absence of a functioning parliament.

13. Legislation to protect minors has, however, been in place in Haiti for 39 years, although it presents certain shortcomings in respect of the Convention. The Constitution, which dates only from 1987, naturally recognizes the inalienable rights of children.

B. Structural and administrative measures

14. In terms of public policy, children are generally covered by social policy, one of the State's major areas of intervention. According to articles 260 and 261 of the Constitution, the State shall provide aid and assistance to children, and this is guaranteed by law.

15. Thus all State agencies are specifically charged with applying the Convention in their own respective areas. At the same time, however, as a result of the way Government is structured and operates, certain public bodies have become the cornerstone of State policy on

children's rights: the Ministry for Social Affairs and its Social Welfare and Research Institute (IBESR), the Ministry of Justice and Public Security, the Ministry for Education, Youth and Sport, the Ministry of Public Health and Population, the Ministry for the Status of Women and Women's Rights, and the State Department of Youth, Sport and Community Service.

16. The Ministry for Social Affairs is responsible for directing the Government's social policy, and is thus the natural choice as coordinating agency for measures to implement the Convention. A committee comprising representatives of all the above-mentioned bodies, a representative of the Ministry of Foreign Affairs and a representative of the Haitian Coalition for the Defence of Children's Rights, was established in 1997 to identify measures taken to implement the Convention.

17. This committee also runs a range of activities and projects such as National Children's Day and directs the preparation of reports on the implementation of the Convention, among other things. The plan is to make the committee a permanent body that will be able to monitor implementation of the various aspects of the Convention.

18. Apart from the Ministry for the Status of Women and Women's Rights, all the government bodies mentioned above predate the Convention. The Convention affects them, however, and they have therefore launched programmes and projects and established internal units or departments to implement those aspects of the Convention that concern them specifically. These efforts form an integral part of the comprehensive drive to reorganize Haiti's public administration, begun by the Government in 1996.[4]

C. Publicizing the Convention

19. One of the Government's main priorities in implementing the Convention on the Rights of the Child has been to introduce the provisions of the Convention to the Haitian people. In addition to the publication of the Convention in *Le Moniteur*, a whole series of activities have been undertaken to raise people's awareness of children's rights.

20. The project has been ongoing since its launch in 1998: the organization of the National Children's Day and celebrations to mark the tenth anniversary of the Convention provided an ideal opportunity for the launch. Radio and television programmes, posters and advertisements, graffiti, banners, stickers, etc. are all still being used today to publicize the Convention.

21. The press has also given full coverage to the issue of children's rights. In December 1998, the Ministry for Education, Young People and Sport organized a "Media for Children" day to make journalists aware of the need to contribute to the development and implementation of the Convention. The same Ministry publishes a quarterly magazine, *L'Éducation en action*, which has become a real forum for dealing with educational issues related to children's rights.

22. The Ministry of Justice and Public Security, for its part, organized a day of action on the subject of justice and support facilities for minors. Since August 1999 it has also been publishing a quarterly magazine, *La Magistrature,* every issue of which includes an article on juvenile justice written by the juvenile court judge, who also gives seminars and lectures at university.

23. Other initiatives should also be taken into account: articles by government officials occasionally appear in the country's two main daily newspapers, *Le Nouvelliste* and *Le Matin.*

24. Government efforts are supported by the work of national non-governmental organizations and international organizations. For example, the Convention has been published in French and Creole and competitions have been organized on themes related to children's rights. Also noteworthy is the work of the Haitian Coalition for the Defence of Children's Rights, which has set itself the task of raising people's awareness of the Convention.

25. It is difficult to estimate today what percentage of the population is really aware of the issue of children's rights, so it is still not possible to say how successful the process of publicizing the Convention has been.[5] However, from an analytical viewpoint, it can be agreed that one of the problems is the concentration in the capital city of the media that broadcast news of the activities described above. The problem is exacerbated by the limited reach of the media, which generally cover only the metropolitan region.

26. Another major problem is the lack of a systematic policy to publicize the Convention, as witnessed by the sporadic nature of most of these activities. The effectiveness of the press is evidently limited by the very high illiteracy rate in the country, while the nature of the other media used (banners, graffiti, etc.) also suggests there is a need to assess their impact.

27. Nevertheless, by incorporating the Convention in the basic educational curriculum, the Government has made a logical choice to publicize children's rights by targeting children themselves. In this way, the best possible results may be expected from awareness-raising activities.

28. The proposal to make the Inter-Ministerial Committee on the Rights of the Child a permanent body also offers prospects for the systematic coordination of efforts to disseminate the Convention, as one of the Committee's main tasks will be to rally public support for children's rights. One way forward would be to use the community radio stations that broadcast almost everywhere, including the most remote parts of the country.

D. Strategies for publishing the report

29. A whole range of options has been envisaged to bring the report to everyone's attention. Among the strategies for disseminating the report are its translation into Creole, its reproduction and dissemination within civil society, the organization of seminars, lectures and radio or television programmes and its systematic publication in the press.

30. The Government also envisages involving private organizations by repeating the experiment with the Haitian Coalition for the Defence of Children's Rights, but this time with a wider circle of partners including not only other organizations providing assistance to children and families but also those working in other areas of human rights in general and children's rights in particular.

31. It is also understood that each of the public institutions concerned will inform and motivate its own partners, if only on the essential points of interest to them. However, the most ambitious action will be aimed at the local authorities, which do not yet appear to have realized that the problem of children's rights concerns them. To this end, briefing sessions are planned with local representatives, local organizations and the local press. Religious and community leaders will also be involved.

E. Definition of the child

32. In Haitian legislation, the child is referred to as a "minor". Article 392 of the Haitian Civil Code defines a minor as a person of either sex who has not yet reached the age of 18, which is the age of civil and political majority and matrimonial capability. However, a girl who becomes pregnant before reaching the age of majority may marry the baby's father provided that her parents consent or accept responsibility and that the President of the Republic authorizes the marriage.[6]

33. Minors cannot institute legal proceedings or consult a lawyer in their own right. This responsibility falls to their parents or, where necessary, their guardian. However, nothing prevents them from appealing to the Ombudsman, a person designated by the Constitution and the law to protect all individuals from all forms of abuse by the authorities.

34. The Labour Code sets the minimum age for paid work by children at 15, but hiring requires the authorization of the Labour Department. However, according to the Labour Code, a child may enter domestic service at the age of 12, although this requires the authorization of the Social Welfare and Research Institute (IBESR), which no longer grants authorization as it is against such domestic service on principle.

35. The age of criminal majority is set at 16 years. However, children aged between 13 and 16 who commit crimes and serious offences are taken before the Juvenile Court. Only minors who have reached the age of 16 are taken before the Juvenile Assize Court.

36. Criminal responsibility (sentencing) and custodial measures (detention) do not, as such, apply to children. The juvenile court judge takes a decision, depending on the nature of the offence or crime committed by the minor, on the protective measure to be taken in the best interests of the child. Whatever the judge's decision, the measure is restricted to placing offenders in a remand centre in order to "protect them from the overcrowded conditions of prisons for adults" and only concerns children aged between 13 and 16 (Protection of Minors (Erring or at Physical or Moral Risk) Act of 7 September 1961).

37. Minors under 13 years of age enjoy exemption from criminal liability as a matter of principle and are liable only to protective, assistance, supervisory and educational measures. If they commit a minor offence, they can be tried by a police court, but this court can only issue a reprimand or fine minors who are over 13 years of age. The Act of 7 September 1961 provides that, in any case, the minor can be placed on probation up to the age of 21 (the Act dates from the time when the age of majority was 21).

38. Haitian legislation does not define the age of majority in health matters, but paediatric practice sets it at 15 years.

39. At the analytical level, the status of children in Haiti appears somewhat complicated, if only because the existing civil and criminal laws are outdated and because of the lack of effective administrative structures and procedures.

40. Fortunately, the Government takes the problems of children today very seriously. Its intention is to delete the chapter dealing with children in domestic service from the draft Children's Code. It also intends to ratify the Convention (No. 138) concerning Minimum Age for Admission to Employment of the International Labour Organization and supports the International Programme on the Elimination of Child Labour. Of course, the lack of a parliament delays such actions.

F. Non-discrimination

41. Haiti is a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, which means that the principle of non-discrimination applies in all areas.

42. Haitian law makes no distinction between children on the basis of sex, religion, ethnic origin, race, colour or economic status. The sole distinction made between Haitian and foreign children does not affect the enjoyment of, or respect for, the rights defined in the provisions of the Convention. According to article 54 of the Constitution, aliens in the territory of the Republic enjoy the same protection accorded to Haitians under the law.

43. Racial discrimination is a serious offence punishable under Haitian law under a decree of 4 February 1981, which defines racial discrimination as any distinction, exclusion, restriction or preference based on race, skin colour, descent or national or ethnic origin which has the purpose of nullifying or impairing the recognition, enjoyment or exercise of equal human rights.

44. The Civil Code distinguishes between children born in wedlock (legitimate children) and children born out of wedlock (adulterine children). Adulterine children may not, for example, inherit from the father and do not bear the father's name. As a result they have no right to financial support and therefore no right to maintenance. They are excluded by this legislation.

45. Such children have also tended to be deprived of a family environment and the care associated with such an environment by virtue of a decree-law of 22 December 1944, which barred adulterine children from taking affiliation proceedings. Fortunately, article 262 of the current 1987 Constitution provides for the adoption of a Family Code, which will establish such affiliation proceedings.

46. Certain discriminatory practices based on such criteria as skin colour (Blacks/Mulattos), economic status (poor/rich), or religion (Catholic/Protestant/Voodoo), can sometimes be observed in Haitian society. A certain amount of de facto sexual discrimination is also informally transmitted to boys and girls in the course of their upbringing. Today, however, as shown by girls' school enrolment rates and the status of women occupying prominent positions in society, attitudes have changed considerably and there is greater awareness of the need to put an end to such discriminatory practices.

47. The Government, too, is fully aware of these problems. The decree of 4 February 1981 prohibits all such discrimination, characterizing it as a criminal offence. The penalties for such practices range from fines of up to 25,000 gourdes to three years' imprisonment.

48. The creation of the Ministry for the Status of Women and Women's Rights was a step towards the elimination of sexual discrimination. The fact that the Ministry occupies a strategic cross-disciplinary position in public policy bears eloquent testimony to the Government's desire to resolve the gender issue in Haitian society.

49. Lastly, the draft Children's Code is one of a series of keystone projects for the elimination of all discriminatory practices of this kind affecting children.

G. Best interests of the child

50. The Constitution provides for a range of rights to be enjoyed by all without distinction. While explicit reference is not made to children in that regard, they are formally recognized in articles 260-261, which deal with the State's duty to aid, assist and protect children. These articles also recognize that the child is entitled to love, affection, understanding and moral and material care from the father and mother.

51. These constitutional provisions have gone some way to offset the shortcomings in Haiti's legislation on children. The principle of parental authority,[7] for example - which allows parents to send their children to prison with no judicial proceedings - places undue emphasis on parents' right to wield quasi-discretionary power over their children. Such practices are in decline, however, and very few cases of this kind are recorded today.

52. The institutionalization of domestic service through the Labour Code presents enormous problems with regard to the best interests of the child. Far from encouraging their full personal development, this practice tends rather to trap children in a situation where they have no rights and are subjected to inhumane treatment, without regard to health, education or personal development.

53. It goes without saying that the Government is fully aware of the issue of children's rights. Haiti signed a memorandum of agreement with the International Labour Organization in 1999, as part of the International Programme on the Elimination of Child Labour.

54. The best interests of the child are safeguarded in juvenile courts through procedures such as in camera hearings, non-publication of certain judgements and consultations with parents before judgement is passed.

55. The State does not intervene directly in family life in order to safeguard the best interests of the child, owing partly to the opposition of families themselves and partly to the State's own lack of resources. Despite that, the Government has given a high priority to school attendance during the last five years and considerable assistance has been given to the private transport sector nationwide in order to help schoolchildren, in particular, get to and from school. The same applies to the school cafeteria programme and the supply of equipment (uniforms, books, notebooks, pens and pencils, etc.), chiefly to children in public-sector schools.

56. Insufficient attention is paid to areas such as loans, housing and social security as a result of the budget constraints that affect all government policy. The areas of adoption, immigration procedures and institutional care, however, continue to be dealt with in due and appropriate fashion.

57. Haitian law is clear on the question of parents' responsibility for their children's welfare. Article 261 of the Constitution provides that all children are entitled to love, affection, understanding and moral and material care from their father and mother. No legislation has yet been adopted to implement this provision because of the lack of a parliament.

58. Certain mechanisms are, however, already in place - recovery of maintenance for children from split families, for example. The law also provides that assistance may be given to needy families in order to help parents meet certain obligations. This service is in theory provided by the Social Welfare and Research Institute (IBESR), but is in practice duplicated by the Social Welfare Fund, which supports only very few families, and only under extremely limited conditions.

59. State monitoring of institutions responsible for child health and safety is carried out through public-private partnerships.

60. The principle of the child's best interests gives rise to a number of problems in such areas as legislation (absence of legislation implementing the provisions of the Constitution and the Convention), human resources (quantitative and qualitative deficiencies), and logistics (not only as regards inspections and other visits but also as regards the lack of care and/or rehabilitation centres in the area of juvenile justice). These problems are in addition to the problem of budget resources. These severe constraints have compelled the Government to make children's education a priority for at least 10 years.

H. Child's right to life, survival and development

61. The child's right to life is guaranteed by both the Constitution[8] and the law. The death penalty has been abolished for all cases (Constitution, art. 20); protection is guaranteed for all children (Constitution, art. 261); and abortion by a pregnant woman is punishable by three to nine years' imprisonment (Criminal Code, art. 262). Similarly, any doctors, surgeons, pharmacists or other health officials who facilitate abortion shall be liable to long-term hard labour (Criminal Code, art. 261-1).

62. Administrative structures exist to ensure the child's integration in an environment that can guarantee his survival and normal development. The IBESR provides two such essential services: the Prenuptial Certificate Service, whose aim is to encourage marriage and provide couples with marital advice; and the Pre-Natal and Maternal and Child Health Service, whose task is to take any medical or social measures to ensure that the mother-to-be has adequate health, social and economic conditions during pregnancy and can give birth to a healthy child, and also that both mother and child - up to adolescence - enjoy a decent standard of living conducive to normal development, by establishing crèches, nurseries, day-care centres and kindergartens, among other things.[9]

63. The State itself has no care centres for children. The reason for that is its obvious lack of resources, particularly financial resources. Nevertheless, it has a strategy to encourage and coordinate non-public-sector actions in this area. According to the IBESR's January 2000 report, there are 46 State-recognized care centres for children. In each centre, 20 per cent of capacity is allocated to the State for placement of children in difficult circumstances.

64. Children require, for their survival, physical and moral protection and care that will ensure their harmonious development. It is the responsibility of the parents or legal guardians to provide children with the living conditions necessary to their development. Haitian law, however, provides various forms of aid to parents or needy families[10] who are unable to provide for the basic needs of their children, or to children who are deprived of their parents for one reason or another.

65. One example of this is the survivor's benefit paid to legitimate or illegitimate children of deceased civil servants. They receive this benefit as long as they are minors, and beyond, provided they are enrolled in a higher education institution, or indefinitely in cases of total incapacity.[11] The same applies to children of employees, through the National Old-Age Insurance Office.[12]

66. The Employment, Sickness and Maternity Accident Insurance provides support to dependent minors of employees, subject to payment of a supplementary premium.[13]

67. Thus, there is a legislative and institutional framework for the support of children of civil servants and employees. The same does not apply to the far more needy children whose parents fall into neither of those categories. Despite the explicit terms of its mandate to support needy families through subsidies, the IBESR lacks the resources to care for these groups of children. Since 1991, however, such families have been the responsibility of the Social Welfare Fund.

68. The establishment of a social security system is one of the recommendations of the National Commission for Administrative Reform, but as long as governments do not make it one of their own priorities there is no guarantee that it will ever be implemented.

I. Respect for the views of the child

69. The Constitution recognizes and guarantees every person's right to freedom of expression on any matter, by any means he chooses (art. 28). Domestic law does not recognize this right specifically to children, as is also the case with other civil liberties.

70. In practice, there are a number of administrative procedures that bear witness to the Government's desire to respect children's views. Separation from parents, for example, is never a decision guided purely by the objective interests of the child, but usually occurs with the agreement and consent of the child in particular. The IBESR and the juvenile court take account of children's preferences in this regard.

71. The Ministry for Social Affairs listens closely to children's views as part of its "Assembly Points" project. It is not the Ministry that decides on the career choice of the children enrolled in the project but the children themselves who choose the activities that interest them.

72. The authorities have no means of monitoring the application of, or respect for, this principle, however, particularly within the family environment. It is thus impossible to properly evaluate the extent to which children actually exercise their right to participate in decisions that affect them.

73. The situation is no less problematic in schools. According to a United Nations Children's Fund (UNICEF) survey, more than 50 per cent of children report difficulties in expressing their opinion at school or at home.[14]

74. In judicial and administrative terms, according to Haitian law, the child is a minor under the responsibility of the parents or legally appointed guardians. There are, however, a number of mechanisms that allow children to request the help of the State, through the IBESR (by phoning 133), if they are subjected to ill-treatment within the family. Children are not barred from applying to the Office of the Ombudsman, since the Ombudsman is required to protect any individual against all forms of abuse of public office.

75. The greatest obstacle in the way of respect for the views of the child remains the lack of any tradition of tolerance in general within Haitian society, a problem that becomes particularly acute when children need to be allowed to express themselves or participate in decisions affecting them. According to the UNICEF survey, the situation is better in the more well-to-do strata of society and worse among disadvantaged groups.

76. The State has made great efforts to solve this problem. Its overall strategy has been based on training and awareness-raising among the various professions that deal with children. Actions taken include the entire campaign around the Convention itself, lecture-discussions by the juvenile court judge at the University, the introduction of a module on child law into the curriculum of the Magistrates' College, and the inclusion of the Convention in the basic education curriculum and therefore also in the teacher training curriculum.

II. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality

77. Haitian legislation is naturally consistent with the principle of the right of the child to have a name and to acquire Haitian nationality.

78. With regard to nationality, article 11 of the Constitution stipulates: "Any person born of a Haitian father or Haitian mother who at the time of the birth had never renounced their nationality possesses Haitian nationality." Haitian nationality may also be acquired by nationalization.

79. Article 49 of the Civil Code provides for the granting of Haitian nationality to abandoned or stateless children. It stipulates that children born in Haiti of unknown parents or of parents whose nationality has not been established shall acquire Haitian nationality by virtue of the notification of birth made to the civil registrar.

80. The surname acquired by the child depends on the type of filiation. In the case of legitimate filiation (within wedlock), the child naturally bears the name of the father. In the case of natural filiation (unmarried parents), the child bears the name of the parent who recognizes him or her first; if both do so at the same time, custom favours the father's name.

81. Children born of adulterous relationships are not permitted to bear the name of their father if he is living in wedlock with another woman, while a child born to an adulterous woman can only bear the name of her husband, except in the case of repudiation of paternity, which opens the way to divorce proceedings. The child may then take the mother's maiden name or may be acknowledged by the true father.

82. In the case of adoptive filiation, the surname of the adoptive parent is joined to the child's surname. A child adopted by a couple takes the name of the husband and a child adopted by a woman only bears the woman's maiden name.

83. Abandoned children undergo an administrative procedure leading to their adoption.

84. The greatest problem facing children with regard to their surname and first name remains the drawing-up of civil registration documents. The birth certificate is normally based on a notification made by one of the child's parents to the civil registrar. This notification of birth may even be made belatedly. However, it is necessary to point out certain difficulties that arise from the distribution of registry offices: they are very few in number and in regions remote from the towns they are non-existent. Moreover, the centralization of registry offices in the towns often makes them inaccessible to people living in rural areas,[15] who, even if they are aware of the need to register the birth, will not normally leave their work to go to the town to attend to this formality.

85. Collaboration between Church and State has helped to make up for this weakness of the system. At the time of the child's baptism, a highly regarded tradition, the administrative services of the parish attend to the notification and the issue of the child's birth certificate.

86. By its decree of 16 May 1995, the Government granted everyone whose birth had not been registered the opportunity for a period of five years to do so without needing to follow the normal procedure of late registration. It is impossible at present to determine how many people are still not registered at the registry offices. This situation is worsening with the ever-increasing

number of children who are born in the Dominican Republic to Haitian parents living there without proper papers and who consequently have neither Dominican nationality nor Haitian nationality, which in any case most of the parents reject.

87. The best prospect for solving this problem of identity is offered by the Act of 4 April 1996 on the organization of the territorial unit of section communale. In article 19, paragraph 18, it instructs the governing council of the section communale to receive provisional notifications of birth and to see that they are properly and regularly registered with the competent civil registrar.

B. Preservation of identity

88. The principle of identity as defined in the Convention is not in conflict with Haitian legislation. Name and nationality are already guaranteed by law and by the related administrative measures. The same applies to family identity.

89. The Constitution lays on the State the obligation to protect the family, which it regards as the basis of society. It even proposes the adoption of a family code in order to ensure that the family's rights are protected and respected and to define the procedures for determining paternity.

90. One of the problems connected with the principle of preservation of identity concerns the search for the original parents in cases of inter-country adoption. Obviously, when a Haitian child is adopted by a foreigner, he or she does not automatically lose the nationality of origin, but a problem arises if the child wishes to find the original parents.

91. In cases of adoption agreed to by the original parents, it is perfectly simple to trace them. However, in the case of an abandoned child it is impossible for the IBESR to trace the parents because abandonment of a child is an offence under Haitian criminal law.

C. Public freedoms

92. Haiti's laws make no specific reference to children as regards public freedoms, but the Constitution, for example, recognizes these freedoms and guarantees them for all. The only restrictions on their enjoyment relate to the safeguard of national security and public security.

93. **Freedom of expression** is a matter of course. It is the ever-increasing private media (radio, television, newspapers), which incidentally are encouraged, which offer children the greatest opportunities to express themselves, while recreational programmes are broadcast from time to time on Haiti's national television and radio channels.

94. As regards the right to seek and receive information, the State focuses its efforts on matters related to schooling. Every year it distributes schoolbooks free of charge to children in the public sector and exempts imported schoolbooks from customs duties.

95. **Freedom of thought, conscience and religion** is not restricted either. In practice, however, children always adopt the religion of their parents.

96. **Freedom of association and of peaceful assembly** is mainly practised through the students' associations, which incidentally are very active, including involvement in the periodic political crises that have affected Haitian schools since 1986. The only restrictions relate to considerations of national security or public security.

97. The exercise of these freedoms presents a number of problems for Haiti's political and legislative value systems. The Constitution grants political rights only to citizens aged 18 years and over. Similarly, on account of the principle of the exemption of the child from liability in civil and criminal matters, civil responsibility rests with the parents. The great question here is the feasibility in practice of the idea of holding the parents responsible for acts that they are completely unable to prohibit or control.

98. All in all, the **respect for the privacy of children** and their **right to peaceful association** presents a major practical difficulty in Haitian legislation. For the time being, Haitian society is not abandoning the principle of parental authority, at any rate as regards aspects relating to the exercise of control over criminal acts by children.

99. With regard to the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, it should be pointed out that Haiti is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Nevertheless, cases of ill-treatment are still recorded in society and particularly affect children working as servants and children living with step-parents. To combat this situation, the IBESR has set up "SOS TIMOUN". This is a telephone line, No. 133, that enables children in difficulties or even witnesses to ask the State to intervene.

III. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

100. For the Haitian State the family represents an institution of the utmost importance in regard to the rights of the child: it is the first environment that the child enters. The Constitution regards it as the basis of society. The State protects the family and guarantees its rights. A family code is to be drafted to reinforce these rights. The courts and the public institutions for the defence and protection of the rights of the family must be accessible, free of charge, even in the very smallest territorial unit (articles 259-262 of the 1987 Constitution). Nevertheless, it is the responsibility of the IBESR to provide the means for granting this protection to the family and child.

101. As things are at present, these legislative provisions are difficult to apply on account of the non-existent or inadequate organization of the relevant facilities. The activities of the IBESR are thus very limited with regard to the protection available for families and the practical monitoring of the way of life of children within families.

A. Parental guidance and responsibilities

102. The family is the natural environment for the growth, development and fulfilment of the child. The Haitian Constitution recognizes the child's right to love, affection, understanding and moral and material care from the father and mother.

103. The Haitian Civil Code establishes the responsibility of parents towards the child. The decree of 12 December 1960 lays upon parents or any person in charge of children the obligation to feed them, send them to school and provide them with leisure, mental development, the right to express themselves and equal treatment at home and in the community. Under the Criminal Code, any person who abandons or neglects a child in his or her charge is liable to imprisonment. This penalty varies according to the result of the act and the status of the person towards the child.[16]

104. There is no restriction on parents or persons responsible for a child with regard to their duty towards the child. They are free to choose the type of education the child receives, except for any teaching liable to impair normal development.

105. No parent or person in charge of a child is authorized to ill-treat the child. Cases of ill-treatment, rape or any form of violence against children are punishable by law.

106. The IBESR is the instrument available to the State for monitoring the life of children within their families. Unfortunately, the Institute has only very limited means for putting into effect the legislative or treaty recommendations, a responsibility assigned to the Minors Protection Service of the Institute. Such activities require vast human, material, financial and information-related resources.

107. Through its Prenatal and Maternal and Child Health Service, the IBESR exercises some degree of supervision over families, with regard to their state of physical and mental health, and over mothers-to-be, in particular by helping them to give birth to healthy children. It provides training for pregnant women in hygiene and social and economic matters.

108. Under the regulations, this Service also has to provide decent living conditions for the mother and for the child up to the age of adolescence and ensure the normal development of the child through the establishment of crèches, nurseries, day-care centres, kindergartens and other facilities.[17]

109. In practice, the measures do not cover all families throughout the country, but are concentrated in the capital. Even there, only a tiny minority who attend at the IBESR are able to benefit from them, as the Institute does not have sufficient resources to reach out to families.

B. Separation from parents

110. The separation of a child from the parents is always an extreme solution adopted by the judicial authorities and/or the IBESR in the best interests of the child. It is resorted to when there is proof of ill-treatment, serious crimes, rape or a conflict resulting from reprehensible behaviour by a parent towards a child. Whenever possible, a family counsellor takes part in the consultations and the child is then entrusted to a boarding school, a foster family, a rehabilitation centre or residential centre, as appropriate.[18]

111. On the other hand, there are other separation situations that do not arise out of a judicial or administrative decision. For example, many parents put their children into domestic service with other families. In practice, this is a desperate solution adopted by needy families, generally from rural areas, in the hope that the child will benefit from some degree of education or greater well-being, or even some rise in social status.

112. Despite the existence of laws regulating domestic service, children in this situation are subjected to inhuman treatment, in flagrant breach of the rights of the child. The national authorities are aware of this situation and are working on legislative and administrative measures that will ensure the physical integrity and the dignity of these children. The draft children's code is one such measure.

113. There are also very many cases on record of children entrusted to close relatives when the father or mother are obliged to migrate, mainly for economic reasons. The converse also occurs when parents living abroad send their children back to Haiti for a variety of reasons.

114. The most difficult cases of separation of children from their parents are those that occur following a divorce or the imprisonment of one of the parents. Normally, the law does not prohibit contacts or relations with the parent or parents, except in circumstances where the best interests of the child are invoked (parent who is mentally retarded, of dubious morality, who has committed rape on the child's person, etc.).

115. In the case of divorce, the law generally gives custody of the children to the mother. The visiting time of the other parent is fixed by judicial decision and enables the child to remain in contact with that parent. However, the speed with which the courts, in interim relief proceedings, decide on the custody of the child means that the best interests of the child and the wishes of the child are not always taken into account.

116. Separation because of the imprisonment of a parent is naturally harmful to the child. However, prisoners and their relatives are able to remain in contact with each other, either by means of visits or by correspondence. For this purpose, the Prison Social Service has been set up within the IBESR, with the task of providing support for both prisoners and their families.

117. Separation on account of exile, expulsion or deportation is in all cases an infringement of the right to security. Haitian legislation refutes these practices inasmuch as article 41 of the Constitution stipulates: "No person of Haitian nationality may be deported or forced to leave the national territory for any reason ...".

C. Family reunification

118. Family reunification is regarded by the State in the most favourable light in that it enables children to return to their natural environment, which is their family. However, in the case of families separated as a result of the parents leaving for another country, family reunification follows the regular procedures of emigration, with regard to Haiti, and immigration, with regard to the host country.

119. The Haitian State has no objection to children rejoining their parents living abroad or establishing contact with them. However, no bilateral agreements have actually been signed with other countries to facilitate family reunification. There are only some declarations of principle between Haiti and the Dominican Republic regarding the repatriation of Haitian children living across the border with their families.

120. Foreign children are granted visas by the Haitian State for the purpose of family reunification without difficulty. However, in compliance with the principle of compulsory accompaniment recently adopted by the Ministry for Social Affairs, a child leaving or returning to the country must be accompanied by a properly authorized person. This measure has been adopted to prevent trafficking in children and illicit transfer. The authorities have not recorded any case of a request for asylum by a foreign child.

121. Article 41-1 of the Constitution stipulates that: "No Haitian needs a visa to leave or return to the country." It thus recognizes the right to freedom of movement.

D. Illicit transfer and non-return

122. The illicit transfer and non-return of children normally come under the heading of de facto family reunification. These are very often acts that escape the notice of the Haitian National Immigration Service and seek to circumvent the immigration procedures of other countries, which the parents consider too lengthy.

123. Other cases of illicit emigration are thought to concern the practices of child theft or trafficking in Haitian children abroad. No case of this has been recorded, but the rumours have led the Ministry for Social Affairs to prevent any travel by Haitian children to a foreign country unless accompanied by a parent or another duly responsible person.

124. When illegally emigrating children are intercepted by the immigration authorities of another country and repatriated to Haiti, the National Office of Migration attends to their supervision and reintegration.

E. Recovery of maintenance for the child

125. Divorces give rise to situations in which the children are most often separated from their fathers, who must provide them with financial assistance to guarantee their survival and development. This assistance is very often fixed by a court decision, except in cases of amicable settlement.

126. The decree of 4 September 1983 established the arrangements for the award of maintenance and imposes a penalty of imprisonment on any parent who shirks this responsibility towards his or her children. A large number of court judgements are made to oblige parents to make maintenance payments to their children. When the parents are abroad, the procedure involves the consulate of the country where they are living.

127. There is no problem from the administrative or legal viewpoints in recovering the maintenance for the child. The complications in this matter relate to a number of practical problems, such as unemployment or the fact that the parents have no permanent address. Generally speaking, parents who have custody of their children are unaware of the children's rights to maintenance.

F. Periodic review of placement

128. Under Haitian law, every child who is the victim of ill-treatment within the family is entitled to alternative protection consisting of placement in a residential centre, a boarding school, a rehabilitation centre or a foster family.

129. With the closure of the public centres, the children for which the IBESR takes responsibility are entrusted to private social institutions which must first obtain an official permit from the IBESR.

130. This placement is periodically reviewed by the IBESR through its Prenatal and Maternal and Child Health Service and its Social Support Service. The inspectors of the latter Service, on showing their identification card, are authorized to:

- Visit any children's home under the supervision of the IBESR without prior warning;
- Consult any book, register or document that the institution has to keep under the general regulations and verify its compliance with the legal requirements;
- Carry out any examination, check and investigation necessary to ensure that the internal regulations of the institution are being complied with.

131. These are activities that existed prior to the Convention. Admittedly they are not implemented in an optimum manner, but they do allow some degree of supervision to be exercised over children's homes and all other social institutions for the care of children.

132. The IBESR services suffer from a lack of human and logistical resources, which limits the activities of the inspectors. Attention is also drawn to the problem that their activities are confined to the area of the capital city on account of the relatively low level of the Institute's budget and the non-existence of any policy master plan for children.

Adoption

133. Adoption is an act provided for by law and is the subject of a set of procedures. The adoption service of the IBESR is responsible for examining all requests for adoption and for completing the necessary formalities. The State authorizes adoption whenever it permits the best interests of the child to be safeguarded. Generally speaking, its great practical value lies in the fact that it ensures the child the care necessary for harmonious development.

134. There is currently a very strong upward trend in adoption of children by foreigners, compared with the rather small number of intra-family adoptions (within the national framework). For the period 1994-1999, the adoption service of the IBESR recorded 338 cases of intra-family adoption as against 2,097 adoptions abroad. Adoptions at the national level concern the age group from 10 to 15 years, whereas those registered abroad concern the age group from 1 to 3 years.

135. Adoption is governed by the decree of 4 April 1974.[19] It creates a legal bond between a person and a child who is not that person's biological child analogous to the bond resulting from paternity and filiation. It is authorized in respect of persons under 16 years of age whenever it is based on reasonable grounds that present real and definite advantages for the adoptee. The adopter must be over 35 years of age; there must be an age difference of 19 years between adopter and adoptee. If the adoptee is the child of one of the spouses, the minimum age difference is fixed at 10 years; in eligible cases, the President of the Republic grants a dispensation reducing this period.

136. The adopters must have neither children nor descendants at the time of the adoption. Adoption produces the same rights and the same obligations as those deriving from natural and legitimate filiation.

137. The process of adoption presents no difficulty with regard to the legal procedures. However, the adoption service faces two essential problems: supervision abroad, which could be carried out by the consulates of Haiti, and the search for the biological parents of abandoned children.

138. In the case of adoptions agreed to by the biological parents, this search presents no problems. However, in the case of an abandoned child, the process reaches a stalemate under present conditions in that the IBESR can only issue appeals for the child to be claimed, to which there is never any response.

139. The abandonment of children is an increasing phenomenon nowadays. The explanation for this problem must be sought in the negative attitude of society, which looks upon a woman who abandons her child as an unnatural mother and - the most important aspect - the economic incapacity of these mothers to provide for their children. In some cases the abandoned child is probably an unwanted child.

140. Under the Criminal Code abandonment is punishable as a crime. If the child is abandoned at a hospital, a certificate of abandonment is issued before the IBESR takes charge of the child. In the case of abandonment in the street, a document of abandonment is drawn up by a justice of the peace.

IV. HEALTH AND WELFARE OF THE CHILD

141. As a major area of State policy, health in Haiti is part of the social and cultural integration sector. According to the Constitution, "The State has an absolute obligation to guarantee the right to life and health of all citizens."

142. Specific legislation on child health does not appear to be very extensive. It deals in particular with breastfeeding (12 weeks' maternity leave, a 30-minute break during the working day, etc.).[20] A prison sentence passed on a pregnant woman may be suspended in order to protect the unborn child; the same applies if the convicted woman is breastfeeding a child aged less than six months.[21]

143. In strategic and administrative terms, the State body responsible for the organization and operation of Haiti's health system is the Ministry of Public Health and Population (MSPP). This is a centralized body with 10 central directorates and 10 decentralized departmental directorates with offices at the district level.

144. Like many other sectors, the health sector is following the overall trend of reform as part of the process of modernizing the State. A range of draft legislation has been prepared and awaits adoption by Parliament. It includes a draft organization Act for the Ministry, a framework Act on hospitals and pharmacies and an Act on the marketing of breast milk substitutes. Their adoption will bring about the much-needed modernization of structures and legislation in this area.

A. Priorities and objectives

145. The Ministry of Public Health and Population has three main objectives with regard to the Convention:

- To improve Haitian children's health status;
- To reduce child morbidity and mortality due to infectious and vaccine-preventable diseases;
- To involve the community in action to protect and promote child and adolescent health.

146. Priorities include the provision of integrated good-quality health care for children; control of diarrhoeal diseases and acute respiratory infections; monitoring of growth; prevention of anaemia, xerophthalmia and goitre; promotion of comprehensive health in adolescents; prevention of sexually transmitted diseases (STDs) in young people; prevention of mother-child transmission of HIV/AIDS; eradication of poliomyelitis and elimination of measles; monitoring of neonatal tetanus and meningococcaemia; sensitization of the population; development of multisectoral cooperation, etc.

147. The Ministry has created a Child Health Service to coordinate these aims, with the support of the nutrition, school health and reproductive health services, among others. A National Strategy for Comprehensive Child Care (1997-2000) and annual operating plans have also been drawn up.

148. A number of similar programmes and projects have been carried out, covering, for example, integrated management of childhood illness (IMCI); the revival of school health care; distribution of essential drugs; local production of iodinated salts; control of diarrhoeal diseases

and acute respiratory infections; promotion of breastfeeding and baby-friendly hospitals; sentinel surveillance; introduction of new vaccines in the national immunization programme; and implementation of a national health communication strategy.

149. One of the weak points of the National Strategy for Comprehensive Child Care is that it does not cover a large number of children who are in need of special care, notably children with disabilities. At present Haiti cannot be said to have a clear policy on disabled children. However, the State encourages and provides financial support to the private institutions that care for them. These are meagre contributions, however, and in no way meet their enormous need for services of all kinds. Six recommendations were nevertheless made to the Government by a "Symposium on the integration/reintegration of persons with disabilities", held in early December 1999 under the auspices of the Ministry of Education, the Faculty of Human Sciences and Quisqueya University:

- Prevention of disability through immunization, nutrition, early detection and timely intervention, in order to minimize the risk of disability;
- Sensitization of all health workers in hospitals to the concept of early intervention;
- Creation of medical rehabilitation departments in major hospitals;
- Access to all health services for all categories of disabilities;
- Subsidies for artificial limbs and medical treatment or specialist services;
- Subsidies for medicines, particularly those to be taken on a permanent basis, as in cases of epilepsy.[22]

B. Standard of living, survival and development of the child

150. The main priority of the National Strategy for Comprehensive Child Care (1997-2000) is the reduction of child morbidity and mortality. The plan is defined as a programme of simultaneous management of a range of diseases that consistently occur together and are the cause of child morbidity and mortality, particularly in the under-fives.

151. Around 138,000 children aged under five die every year. Sixty per cent of those who survive do not grow or develop normally.[23] Generally speaking, the causes of death among children aged between one month and five years are conditions such as diarrhoea (26-28 per cent), acute respiratory infections (20 per cent) and malnutrition (32 per cent).[24]

152. These data notwithstanding, progress has been made in reducing child mortality, which has fallen from 150 per 1,000 to 74 per 1,000 over the last 20 years. The sharpest decline was noted between 1987 and 1993.[25]

C. Comprehensive care of the child

153. The Government is not insensitive to the diseases that threaten Haiti's children or to which they fall prey. The Ministry of Public Health and Population has included the National Strategy for Comprehensive Child Care in the minimum package of services that should be available at all levels of care. In 1997, Haiti joined the group of countries working with the Pan American Health Organization (PAHO)/WHO, UNICEF and the United States Agency for International Development (USAID) to develop a concerted approach to implementation of the Integrated Management of Childhood Illness project (IMCI), as a component of the Comprehensive Child Care strategy.

154. Implementation of IMCI in Haiti is based on the following three components:

(a) Enhancement of health workers' skills through the development and dissemination of norms, standards and guidelines on the integrated treatment of cases, and activities to promote their application: the Ministry of Public Health and Population has requested and obtained support for the strengthening of the health system, through bilateral cooperation. A programme on child health communication is being developed with PAHO/WHO and 246 workers have been trained, of whom 61 are themselves trainers and 185 are service providers in five health departments;

(b) Improvement of the health system, which is essential for the effective treatment of childhood diseases: this component has received drugs and equipment through bilateral and multilateral cooperation;

(c) Improvement of practices within families and communities, with the support of the Health Communication Unit, which has designed and developed information and communication materials.

155. The regional Healthy Child Initiative was launched in Haiti on National Children's Day in June 2000. The challenge is to reduce deaths among children aged under five by around 8,000 by December 2002.

156. The above-mentioned activities are now going on, with a view to testing and implementation of each component of IMCI. The norms and standards are already available and were evaluated in March 1998. Since September 1997, Ministry staff at both the central and the intermediate levels have taken part in international workshops to enable them to act as facilitators in future trainer-training sessions. The first phases of adaptation of the generic IMCI material to local conditions are complete.

157. Monitoring reports show an overall improvement in the health of Haiti's children, which is to be expected as a result of the expansion and systematization of service provision. The report of the third survey on morbidity, mortality and use of services (EMMUS III) currently being prepared should confirm this.

158. Financial constraints impede this process to some extent, however. Those who implement the programme best are those who have received training. Conversely, those who have not had such training hold back the rate of progress. The lack of financial resources prevents training programmes from being developed: international commitments towards Haiti are honoured only in part (donations) and the absence of a Parliament does not help, and indeed represents a further constraint on, the Government's loans procedures.

D. Nutritional monitoring and promotion of breastfeeding

159. In 1994, the Ministry of Public Health and Population, with the continual cooperation of PAHO/WHO and UNICEF, took the initiative in launching a new programme to promote, protect and support breastfeeding. A national campaign to promote exclusive breastfeeding for the first six months of life was launched in August 1995 with a view to increasing the prevalence of exclusive breastfeeding from 0.6 per cent to 30 per cent by 1997. Less than a year after the launch of the programme, 32.7 per cent of the country's hospitals in seven departments had already joined the Baby-Friendly Hospital Initiative. Over 2,000 health service providers had been trained and over 1,000 campaigners were advocating the practice of breastfeeding in various communities.

160. This approach has yielded promising results: in areas where promotion, protection and support measures were implemented to ensure a 50 per cent reduction in infant mortality, hospitalization for severe dehydration has dropped sharply, in some cases to zero, and infant malnutrition is practically non-existent. This means that about 10,000 infant deaths are being avoided every year, and that the prevalence of malnutrition is dropping significantly.

161. In their effort to improve coordination, the Ministry and its partners have established teams of departmental trainers. Some structures, such as the National Breastfeeding Committee,[26] need to be given new impetus. Other objectives include monitoring new baby-friendly hospitals, seeking media coverage and mobilizing more baby-friendly hospitals. Seven baby-friendly hospitals are currently being evaluated.

162. The new national nutrition policy, which advocates breastfeeding as one of the main strategies for improving nutritional status, will help achieve the objective of 30 per cent prevalence of exclusive breastfeeding for the first six months of life.[27] In addition to monitoring the infant's growth, the new health record card will make it possible to follow the baby's psychomotor development.

E. Expanded Programme on Immunization (EPI)

163. Immunization coverage remains low. This can be attributed to many factors, for example, lack of daily immunization activities in many health centres, a reduction in the number of community immunization activities (community immunization days), and difficulties encountered at the local level (health centres and health posts) in obtaining supplies.

164. According to the EMMUS-II report, mentioned above, immunization coverage rates for children 12-23 months of age were as follows: BCG 73 per cent, DPT 41 per cent, measles 48 per cent. The rates for fully immunized children (that is, those who had received the BCG vaccine, the measles vaccine, three doses of DPT and the polio vaccine, excluding polio-0) were 30.2 per cent for children 12-23 months old and 18.7 per cent for children less than a year old. One in five children aged 12-23 months and one in four children under 1 year of age had not received any vaccination.

165. By 1999, national immunization coverage for one-year-olds was 85.5 per cent for BCG, 81.4 per cent for measles, 66.1 per cent for DPT-3 and 59.6 per cent for polio-3. The fact that the average rate for various vaccines now exceeds 50 per cent is encouraging. The national objective is to reach and maintain immunization coverage of over 80 per cent for BCG, polio, DPT-3 and measles vaccines in children under one year of age and for tetanus toxoid among pregnant women by December 2000.

166. No cases of measles were registered in Haiti from 1995 until March 2000, when several cases were recorded in one of the health departments, and the epidemic gained ground. It is estimated that since the 1995 campaign, the number of people susceptible to measles has grown rapidly, with an estimated total of over 600,000 children under the age of 5 not having been immunized. This is largely due to the low immunization coverage (around 30 per cent) attained through routine vaccination activities since the campaign. This measles outbreak prompted the Ministry to use a house-to-house vaccination strategy in schools and community clinics.

167. It is important to remember that a lack of measles cases is not equivalent to eradication of measles. Thus, speedy immunization of children under five years of age against measles is a high priority. Immunizing at least 95 per cent of those at risk would close the "vaccination gap" which developed after the anti-measles campaign.

168. However, these activities have to take EPI circumstances and priorities into account. They are being carefully prepared to help relaunch the programme in general, and could include other vaccines apart from measles, which are considered equally important by the Government and all the contributors to health, including, in particular, families and communities.

169. EPI was evaluated in March-April 2000. The report includes a five-year action plan for which resources are being mobilized. The national EPI will soon include vaccines that have been available up to now in private practice (German measles, hepatitis B, etc.). Other important measures undertaken by the Ministry include installation and maintenance of a cold chain (training of technicians, provision of equipment, etc.) and review of EPI standards (to be followed by their publication), etc.

F. Programmes for the control of diarrhoeal diseases (CDD) and acute respiratory infections (ARI)

170. In Haiti, diarrhoeal diseases, ARI and malnutrition are the main causes of infant morbidity and mortality. According to data of the paediatric service at the Haiti State University Hospital, the main causes of admission in 1995 were premature birth (23 per cent), pneumonia

(16 per cent), malnutrition (8 per cent), meningitis (8 per cent), typhoid fever (6 per cent), and gastroenteritis (5 per cent). In 1996, pneumonia topped the list, accounting for 19.3 per cent of paediatric hospitalizations, but the figure went down to only 12 per cent in 1997.

171. Studies conducted in the rehydration ward of the Haiti State University Hospital since 1982 demonstrate that these conditions tend to occur concurrently in the same child.

172. During the last 20 years, specific vertical programmes, such as control of diarrhoeal diseases, control of acute respiratory infections, monitoring of growth, and EPI, have yielded positive results in terms of morbidity and mortality due to the conditions concerned. The remarkable drop in infant mortality between 1987 and 1994 can no doubt be mainly attributed to the success of the fight against diarrhoeal diseases and to EPI. Progress has been made in oral rehydration therapy and the social marketing of oral rehydration solution enjoys Ministry support. The challenge of today is to build on these achievements, by incorporating them into childhood illness management (IMCI).[28]

G. School health

173. Health in Haiti's schools is a priority for the Ministries of Health and Education under the National Programme on Comprehensive Health for Adolescents and Young People. Three main aspects are: management of young people's sexual health by means of prevention (through information and education) and treatment of STDs, immunization of students (by introducing a vaccination card), and nutrition (by setting up the National School Cafeteria Programme). These programmes are proceeding successfully.

V. EDUCATION, LEISURE, RECREATION AND CULTURAL ACTIVITIES

A. Education

174. The Haitian State recognizes and guarantees the right of all children to education. The Constitution provides for education for all (art. 32 (2)), for which the State itself and local government are responsible (art. 32 (1)). In addition, Haiti has signed a number of international conventions or declarations, including the World Declaration on Education for All, the resolution adopted by the Ministers of Education of the Caribbean and Central America within the framework of the Major Project in the Field of Education in Latin America and the Dakar Framework for Action ("Education For All: Meeting Our Collective Commitments").

175. Since 1987, a considerable and uninterrupted effort has been made in the education sector. However, the chronically unstable political situation has always prevented the Government from acting on recommendations and fulfilling all its obligations towards the nation in educational matters.

176. Since December 1993, the Government has been relentlesaly pursuing its work on a national education plan intended to draw up, in partnership with teachers, civil society and the business world, the broad outlines of an educational system and to identify ways to put them effectively into practice.

177. The first version of the national education plan was produced in 1996 but it was only in 1998 that it was officially published by the Ministry for Education, Young People and Sport, as the "National Education and Training Plan". The Plan sets out the Government's policies and priorities for the next 10 years and describes the objectives, strategy, priority programmes and main projects that will serve as the basis for the State's action in the field of education.

1. Educational priorities and objectives

178. The National Education and Training Plan defines four priority areas for State action, namely: access, quality, governance and effective outside links.[29]

179. With regard to access to education, the Government's objective is to increase supply. Increasing the number of places in State schools is part of efforts to achieve access for all 6-11-year-olds by 2010. A policy of positive discrimination favours rural areas, where new State schools are set up and support is given to local self-help initiatives to increase the number of school places.

180. With regard to the quality of education, the Government hopes to meet its objectives by improving the education provided for pupils in both State and private sectors by emphasizing the knowledge, methods and values they need to acquire.

181. With regard to effective outside links, the Government intends to promote cooperation between schools and industry by adapting courses to industry's and the country's needs, focusing on productivity and providing technical and vocational training that responds to the needs of the productive sectors and offers employment prospects.

182. With regard to governance, the Government wants to enhance the effectiveness of management in the educational sector, strengthen the institutional capacity of the Education Ministry by means of decentralization and devolution strategies applied to the Ministry itself and the educational system as a whole, and open schools to their communities by setting up mechanisms for community involvement in shaping school life.

183. More specifically, the major objectives of the National Plan for Education and Training are to:[30]

- Improve the quality of education, especially primary education;
- Promote a policy to increase resources for apprenticeships;
- Increase and rationalize the number of places in primary schools;
- Revise the curriculum and rationalize the courses on offer in secondary schools;
- Coordinate measures to support the overall development of young children;
- Boost vocational and technical training to support technological innovation and efforts to better match work and training, etc.

2. Overall framework for access to education

184. The data presented in 1998 showed there were at least 9,558 primary schools (first and second cycles of basic education), as compared with 1,179 schools providing third-cycle and secondary education. The State sector accounts for 11 per cent of these two figures, while the private sector accounts for about 89 per cent.[31]

185. At the pre-school level, according to data from the Ministry's Planning Department, there ere 431 State-run centres in 1998 (compared with 210 in 1993/94), all of which were attached to primary schools. The private sector had 6,211 centres in 2000, compared with 1,018 in 1993/94.[32]

186. There are 1.4 million pupils in primary schools (in 1998 there were 341,076, of whom 52 per cent were girls and 48 per cent boys). Girls make up 40 per cent of this number, and boys 60 per cent. There are 41,170 primary-school teachers, of whom 33 per cent are female and 67 per cent male.[33]

187. At the secondary and third-cycle levels, according to the same 1998 data, there were 1,170 schools for a total of 172,053 pupils between 12 and 18 years of age (in 1998 this increased to 327,978).[34]

188. These figures reveal the very high participation of the private sector, i.e. parents, in investment in education. This is explained by the very strong demand for education, which can only partly be met by the public sector. However, this apparent imbalance does not convey a full picture of the State's efforts to revitalize the sector.

189. In fact, the budgetary allocation for the Ministry of Education amounted to about 10 per cent of the overall State budget in 1996/97, behind that of the Ministry of Public Works, Transport and Communications (22.99 per cent), the Ministry of Public Health and Population (10.55 per cent) and the Ministry of State Intervention (10.15 per cent).[35] In 2000, according to data from the Ministry, the budget allocated to education represented 22 per cent of the national budget.

190. The data on school-attendance rates give a far better picture of the overall impetus of State intervention. In the period 1994-1998, the net school-attendance rate for children between 6 and 11 years of age was 6.7 per cent, as compared with 3.13 per cent following the coup d'état. If a longer-term view is taken, it will be seen that during the last 20 years the rise in the gross school-attendance rate for the same age group was 72 per cent, for a net school-attendance rate of 30 per cent.

191. The trend is the same at the pre-school level: the gross school-attendance rate rose from 19.7 per cent in 1990 to 64.3 per cent in 1998, a rise of 44.6 per cent. The rate in secondary education is 5.8 per cent.[36]

3. Challenges for the system

(a) Quality and internal efficacy

192. In 1995 the level of training and qualification of teaching staff was generally low. Studies on a sample of 2,000 teachers in the private and disadvantaged primary education sector showed that their level of attainment was below that corresponding to the third cycle of basic education.[37] In 1998 only 10 per cent of primary schoolteachers had attended teacher training college.[38] This situation naturally affects the internal capacity of the system and gives rise to major problems of wastage. The following table[39] shows the flow rates for students in primary education in 1997:

Flow rate	1st year	2nd year	3rd year	4th year	5th year	6th year
Promotion to higher class (%)	65.7	70.0	71.4	68.8	77.8	65.9
Repeat year (%)	18.7	18.2	18.7	16.3	14	16
Drop out (%)	15.6	11.8	9.9	14.9	8.2	18.1

193. There is a similar problem of quality at the secondary level. According to data going back to 1990, only 366 out of 2,747 secondary schoolteachers held a diploma in education, 500 had a university degree, while 1,315 only had the secondary school-leaving certificate. This lack of qualifications is largely accounted for by the fact that, in an education market where need or demand is very high and supply is very limited, business considerations often take precedence over minimum standards of quality.[40]

194. The internal success rate in secondary education also illustrates the degree of wastage. Out of 288 students entering the seventh year of basic education only 164 successfully completed the ninth year; the others are reported to have abandoned their studies. Moreover, less than a quarter of the initial cohort studying for the baccalaureate II diploma reach the end of the course.[41]

195. For example, in 1996 the 69,555 sixth-grade students in the country as a whole achieved a success rate of only 60.4 per cent, while the figure for the ninth grade was 16.3 per cent. For the baccalaureate I and II the success rates were 6.8 per cent and 22.67 per cent respectively in 1998.[42]

196. The weakness of the system of inspection or supervision established by the State is one of the major factors accounting for the low quality of education in Haiti. Examination of the criteria of students-to-teacher ratio, schools-to-inspector ratio and teachers-to-inspector ratio shows that in the country as a whole there are not enough inspectors for the routine supervision of schools (one inspector for 31 schools) and of teachers (one inspector for 117 teachers).[43]

(b) Implementation of the process

197. In 1995 the Government undertook to standardize the basic education curriculum. It did so in response both to the concern for non-discrimination and to the principle of good governance, which requires that all schools in the country, except those serving the foreign communities, should follow and apply the official curriculum of the Ministry of Education.

198. However, this attempt at standardization was hampered by the lack of supporting measures to ensure a smooth transition from one grade or course to another. For example, in the new secondary education a child completing the ninth grade should be able to choose between the academic option and the vocational option. However, although planned, this has not been put into effect on account of a number of stumbling blocks.

199. Apart from the lack of resources of all kinds, implementation has come up against the need to take into account the aspirations of society as a whole, which demands high-quality education adapted to the requirements of modern times. To meet these aspirations it has been necessary to spend time on designing an adequate project. Activities to this end are currently in progress, including the establishment of the National Commission for Curricula and technical groups for each discipline.

(c) Governance

200. The governance of Haiti's educational system is the responsibility of the Ministry for National Education, Youth and Sport. This centralized structure is assisted by 10 departmental directorates for the purposes of territorial devolution. Before the drafting of the National Education and Training Plan, however, there were problems regarding coordination, clarity of procedures, extreme centralization, supervision and training.

201. The technical diagnosis made prior to the Plan points out, for example, that the departmental directorates have very little impact on the organization and operation of teaching establishments since they lack adequate human and financial resources to carry out their tasks of control, management, supervision, training and educational support. The same problem was encountered with the State University Board of Education, the National Institute for Vocational Training and other government institutions.[44]

202. All the necessary answers have not yet been found to these questions. However, the process on which the State has embarked with its National Educational and Training Plan is proceeding with that in view. During the period 1996-1998, a number of initiatives were taken with a view to making the governance aspect operational. These include:

- Preparation of a draft Guiding Principles for Education Act, currently awaiting parliamentary approval, which is intended to provide the legal framework for the various activities envisaged in the Plan;

- Preparation of a draft organizational act on the restructuring of the Ministry;

- Establishment of a master plan, implementation of which will lead to more rational management of the resources mobilized;

- Resumption of the routine collection of data on the operation and development of the educational system at the pre-school, primary and secondary levels;

- Launch of the Support Programme for Strengthening the Governance of the Haitian Educational System;

- Strengthening of the departmental directorates;

- Establishment of the Training Centre for Educational Staff and of the Training Centre for Primary Schoolteachers, etc.

203. Nevertheless, this process is suffering the repercussions of the economic and financial crisis which is limiting Government interventions. The new Parliament will need to pass new budgetary laws and allocate greater resources in keeping with the Government's ambitions for education.

(d) The curriculum issue: problems of implementation

204. There are two problems regarding the curriculum. The first is that there are very few or no teachers trained to provide instruction in certain subjects, including introduction to technologies and to production activities, physical and sports education and artistic education, which are taught only in a few schools in the capital and the largest provincial cities. This results in a two-tier schooling system, both from the viewpoint of the quality of the teaching provided and from the viewpoint of the implementation of the curriculum.

205. The second problem concerns the curricula currently in use, which present difficulties with regard to the definition of exit profiles, content and skills relating to the training of the new man as the basis of the new Haitian education. Accordingly, the Ministry is currently preparing a white paper on the Haitian school curriculum. Teacher training remains one of the State's priorities. With the opening of the Training Centre for Primary Schoolteachers the gaps should gradually be filled.

(e) Vocational training

206. Vocational and technical training is facing a whole series of problems that are impeding its development. In particular there is its inadequacy in terms of market demand. The verdict of businesses is unequivocal: out of every 1,000 workers employed, only 6 have received occupational training leading to a diploma, and even that is not evidence of genuine mastery of a particular skill. This is why technical staff from abroad are eagerly sought after by Haitian businesses.[45] Another problem is the proliferation of private training centres not subject to any supervision, since society mistakenly regards such training as an alternative for those unable to succeed at conventional academic subjects.

207. The National Institute of Vocational Training, an Education Ministry body responsible for defining, guiding and managing the State's policy on vocational training, has no resources for taking action. However, like all the other sectors, it is benefiting from the overall trend for reform of the Haitian educational system.

208. In 1998 the Ministry designed and drafted a project for the reform of the vocational training system, which is currently being implemented. The overall objective is to modernize the structure and design of the system by strengthening its governance, improving the quality and efficacy of training, providing wider and fairer access, etc.

209. Studies, research and consultations are currently under way in order to define the standards and practices for technical and vocational training in Haiti.

(f) The problem of children with disabilities

210. Only 1.7 per cent of the 120,000 children of school age with disabilities are currently attending special schools. This is partly explained by the lack of trained staff, but it has to be confessed that up to 1993 the problems of disabled children did not figure among the priorities of the Ministry of Education; that is why the few centres that exist belong to the private sector. Moreover, ignorance concerning this topic leads society to invest very little in disabled children.

211. Nowadays the interest taken by the State is very clear. In 1993 the Ministry set up the Commission on Educational Adaptation and Social Support, the task of which is to facilitate the schooling and integration of children with disabilities and also to assist students who are disadvantaged by the educational system.

212. The year 1994 saw the first meaningful measures, such as the integration of disabled children into the educational system and access for such children to the official baccalaureate examinations and to university. Since then, in partnership with the Haitian Society for Aid to the Blind, the Ministry has been engaged in integrating visually handicapped children into normal classes. This programme is proceeding smoothly.

213. From 1997 to 1999 the Ministry, in partnership with the Special Education Centre, drew up a curriculum for the mildly mentally handicapped in order to integrate them into State schools. A group of educators who would be working with these children were given special training in educational psychology.

214. A symposium on the integration/reintegration of persons with disabilities was held on 2 and 3 December 1999 under the sponsorship of the Ministry of Education, the Faculty of Human Sciences and Quisqueya University. In the field of education and vocational training some pertinent recommendations were made to the Ministry regarding access, supervision, special training of educators and participation by the non-public sectors in the decision-making processes. The non-public sectors are already the most important providers of assistance to disabled persons in Haiti.

215. The Haitian State has not yet defined a national policy on special education, but it is firmly committed to this. Some steps in this direction have been taken, through bilateral cooperation. Another move towards this is the draft Guiding Principles for Education Act, which lays down the rules for providing equal opportunities for disabled persons.

4. General progress achieved

216. In relative terms, bearing in mind the limited means available and the overall context of reform of the Haitian educational system, action by the State has provided solutions to a number of problems affecting the system.

217. The Ministry has set up a pilot unit for the National Education and Training Plan which is currently operating in the central plateau, with the aim of getting 47,143 children aged between 6 and 12 years to attend school. Completion of the first part of the unit's task has provided access for 17,000 children, with the creation of 372 new classrooms. Everything has already been put in place so that by September 2000 all children in the central plateau will be attending school. This experiment should enable the State to pursue its objective of school attendance by all children throughout the country by the year 2004.

218. The Quality Control Department and the Department of Higher Education and Scientific Research have also been set up within the Ministry in order to strengthen the capacity of the system.

219. The Educational Support Programme in Haiti is being conducted through bilateral cooperation.

220. The opening of the first training centre for primary schoolteachers (CFEF) in 1999 and the gradual conversion of the teacher training colleges into CFEFs bear witness to the concern of the Ministry to train effective schoolteachers who are capable of working systematically in the classrooms.

221. The problem of over-age children is receiving special attention. With the support of bilateral cooperation, the Ministry is currently developing a four-year curriculum for over-age children in primary education. This programme is now being tried out in the central plateau.

222. The creation of the National Commission for the Education of Girls and the National Commission for the Development of Infants are initiatives undertaken by the Ministry in order to put in place all the necessary structures for eliminating all forms of discrimination, on the one hand, and for providing education for all the country's children, on the other hand.

223. The National School Cafeteria Programme introduced in 1997 provides a hot meal every day for some 105,000 primary schoolchildren in the State sector.

224. Every year the Ministry grants a subsidy and distributes hundreds of thousands of school uniforms and school materials of all kinds to the children.

225. As regards governance it should be pointed out that, besides the reforms already reported, the Ministry has undertaken its own decentralization by transferring some responsibilities and autonomy to the departmental directorates. Likewise, in view of the importance of the non-State sector in Haitian education, the National Partnership Commission was set up in December 1999. Through this Commission the Ministry is keen to develop networks linking the various partners and/or operators in order to re-establish its leadership in governance of the education sector.

226. The Partnership Commission, scheduled to be transformed into an Office of Partnership under its own proposals, is continuing the practice of collaborating with non-State operators that was initiated as soon as the National Education and Training Plan was drawn up.

227. Despite the weaknesses that still afflict the Haitian educational system, there is no cause to doubt the Government's determination to meet the requirements of the system. Nevertheless, budgetary difficulties stand in the way of taking appropriate action to deal with all the problems.

228. The lack of human, material and information resources would appear to be associated with the relatively low budget allocated to education. In the 1996-1997 financial year the funds allocated to the Ministry of Education represented 9.35 per cent of the national budget, or 41.58 per cent of the total allocation for the social and cultural sector,[46] whereas for the 1999-2000 financial year they amounted to 22 per cent of the State budget. This demonstrates the importance attached to educating the country's children and young people.

229. On the other hand, it must be pointed out that failure to respect international commitments towards Haiti is a constraint upon the Government's actions. Paragraph 17 of the Dakar Framework for Action adopted in April 2000 stipulates that "where these processes ... are in place ... each partner will contribute according to its comparative advantage in support of the national [education-for-all] plans to ensure that resource gaps are filled".[47]

B. Leisure, sports, recreation and cultural activities

1. Leisure and recreation activities

230. Haitian legislation has no specific provisions concerning leisure, sports and recreation activities for children. Attention is drawn, however, to article 325 of the Rural Code of 1963 which obliges every section communale to assign an area of 150 x 150 m for leisure activities. Nevertheless, even if the legislation does not specify the right of children to leisure in the manner set forth in article 31 of the Convention, this right is a traditional practice.

231. Leisure, sports and recreation activities come under the authority of the State Department for Youth, Sport and Community Service (SEJSSC). This is one of the most dynamic sectors in the country today, even though the schools are not always properly equipped to enable the children to play during the day.

232. Despite its limited resources, the SEJSSC has been involved since 1997 in carrying out a group of activities that bear witness to its desire to cater for young people.[48] The National Football Academy trains children aged 7 to 12 years; physical and sports education at school and the National School for Sporting Talent offer further permanent facilities for the development of sport and physical education.

233. The OPERATION 2006 project is taking shape with the organization of a series of activities or competitions throughout the various sports regions of the country, with the aim of discovering talented young footballers who receive long-term training from the SEJSSC in an attempt to raise the level of Haitian football. Training is not confined to the sports discipline, for the youngsters continue their normal schooling. This experiment is currently being conducted at the Croix-des-Bouquets ranch.

234. Since 1995 the SEJSSC has organized regular "summer camps of excellence". These 21-day camps held at the SEJSSC training centre at Croix-des-Bouquets are attended by children aged 12 to 15 years, who are invited on the basis of academic performance. They come from all communes of the country. This opportunity for expression, exchanges, creation and learning is conducive to social integration and the discovery of hidden talents.

235. Moreover, with the aim of promoting intercultural exchanges and strengthening the bonds of fraternity and solidarity between young people of different countries, the SEJSSC organized two international summer camps at Croix-des-Bouquets in 1998 and 1999 for children aged 12 to 17 years from Cuba, the Dominican Republic, Quebec (Canada), Guadeloupe, Martinique and Haiti.

236. School tournaments are also organized each year in various disciplines, while other sporting and recreational activities such as neighbourhood contests are conducted throughout the year. Organized leisure activities in schools, although carried out on a relatively small scale, enable the children not only to develop their knowledge or to incorporate the concepts they have learned but also, and above all, to give expression to their creativity and natural talents.

237. However, it is by no means easy for the SEJSSC to carry out these activities. It remains a centralized institution that promotes public participation at the local level, where its work is mainly in the hands of the "multiplier agents for change" and the accredited instructors in each of the country's communes.

238. The problem of human resources, as regards both numbers and training, limits the extent of the SEJSSC's activities. However, attention is drawn to the importance of bilateral cooperation, which grants fellowships for training abroad to young Haitian sports instructors or coaches.

239. The other obstacle to the institution's operation is the perpetual budgetary issue. The available resources do not allow it to operate in an optimum or even satisfactory manner. Here again, international cooperation has a cardinal role to play.

240. Infrastructure is also lacking. There is only one stadium meeting the minimum requirements of the International Federation of Association Football (FIFA); the sports grounds in the communes have no facilities at all and their capacity is very limited; only the metropolitan region has two sports centres, again with no facilities. Because of this situation young people organize neighbourhood activities wherever they find any space available, sometimes in the middle of the road.

2. Cultural and artistic activities

241. The cultural and artistic sector falls within the jurisdiction of the Ministry of Culture. This Ministry, which was established only recently, has not yet defined any systematic project for children.

242. The diagnosis and the master plan[49] drawn up for this sector bear witness both to some centralization of recreational and cultural activities (there are very few cinemas, cultural centres or recreational centres) in Port-au-Prince and to a marginalization of art in general.

243. Very little is therefore being done to develop this sector, mainly on account of the low level of State involvement and the absence of artistic education and training. Neither the central Government nor the local authorities have yet managed to fulfil their strategic role of organizing cultural life. It is true that the Ministry of Culture has only been in existence for five years and the local authorities are not operational. This means that the sector is still seeking to build itself up. A very insignificant level of support for creative activities, still confined to the metropolitan area, is provided in response to requests submitted by the beneficiaries, in other words by professionals.

244. The only regulations and legislation that exist are the laws on the operation of the media, emphasizing the obligation to provide information of cultural, educational and moral value. Here again, however, no control is exercised, with the result that the most violent, the most shocking and indecent things can be heard and read. The radio stations confined themselves mainly, indeed almost exclusively, to the broadcasting of dance music.

245. Within the school system, on the other hand, there is a primary education module entitled "artistic education". Obviously its content is designed to develop the children's taste for art and their creativity. However, as indicated above, it is not implemented. Some schools in Haiti voluntarily give lessons in drawing and musical theory. Only a few schools (three altogether) in the capital give lessons in art.

246. The future prospects are set out in the master plan for culture drawn up by the Ministry in February 1999. Indeed, the education-training-communication component is the second priority after legal and institutional strengthening. At this level of the hierarchy of priorities, cultural action sets out to boost and revitalize the national culture and to identify and design educational, training and communications activities that will permit the implementation of the master plan.

247. The democratization of culture is one of the aims and objectives of the master plan, which sets out to give citizens the means to achieve their full dignity as human beings: the creation of values is based on the free expression of cultural activities. Indeed, without the guarantee of access to culture for all, no national culture can take shape and develop.

248. The major difficulty facing the Ministry of Culture lies in its structural weaknesses and in the unavailability of resources of all kinds for effective action. It will be necessary to wait until Parliament passes the laws on the organization and operation of this Ministry and votes its budgetary allocation to enable it to carry out its policy on culture. The Ministry will also need to pay specific attention to the cultural rights of children recognized by the Convention. There is an increasing need to educate children in this area.

VI. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children

249. The Government has recorded no cases of refugee children in Haiti. However, this issue is specifically provided for by the Constitution. It is governed by two constitutional provisions: the first concerns the right of asylum, which is granted to political refugees (art. 157), and the second concerns the right of foreigners on the territory of the Republic to enjoy the same protection as that accorded to nationals under the law.

250. Haitian laws make little reference to the rights of children within the political domain, but it is safe to state that minors who are refugees or children of refugees enjoy the right to protection. The Haitian State has the obligation to guarantee such protection: the National Office of Migration is the State body with responsibility for supervising and providing aid and assistance to refugees and for integrating them into their community.

251. Apart from the structural and procedural weaknesses, however, some decisions on the placement of foreign children taken by the juvenile court, even if they do not concern refugee children, clearly show the interest taken by Haitian justice in protecting this category of children. For example, according to information supplied by the juvenile court, some American children are provisionally placed with foster families or under the regime of non-custodial supervision.

2. Street children

252. Street children in Haiti represent a very vulnerable category from the social, health and educational viewpoints. According to estimates[50] they numbered between 1,500 and 2,000 in 1991. These children, who live entirely in the streets, come from very disadvantaged families living in slums. Because of their situation they are unable to go to school and are obliged to seek an occupation during the day that will provide money for their survival.[51] Nowadays their number is believed to be 300 per cent higher. Their average age is put at between 10 and 14 years.[52]

253. The street children live in deplorably unhygienic conditions: they eat little and irregularly, they suffer from headaches, fatigue, insomnia and anxiety, and they are particularly exposed to tuberculosis, anaemia, skin diseases and sexually transmitted diseases (STDs). Many of them take drugs and engage in prostitution.[53]

254. There are no special State centres for the supervision and care of these children. They are served by all the State institutions. Some non-State institutions, including the Cornell Geshkio centre for the prevention of AIDS and other STDs and the Maison Arc-en-Ciel, provide health services for these children and for AIDS orphans by means of a mobile clinic.

255. The number of street children is expected to increase on account of the growing pauperizaton in the country and the continuous migration to urban areas. The Ministry of Social Affairs has just instituted "assembly points" to care for these children and provide them with living conditions that can guarantee them a normal living environment in accordance with the provisions of the Convention. The first of these has already been in operation in Port-au-Prince for two months. It is planned to set up others throughout the country.

3. Children in domestic service

256. A child in domestic service lives in a household made up of people who are not members of the child's natural family. He or she performs all kinds of services for these host families, without remuneration and under conditions close to slavery imposed by the master or mistress. In return this child, with no wage, has to make do with lodging, shelter and cast-off clothes.[54]

257. The Labour Code recommends that host families provide the child with decent food and lodging, together with 10 hours of rest each day and one day off per week. They should also provide access to education, health care and leisure. Unfortunately, none of these recommendations are followed by the host families, which makes the life of children in this position extremely difficult.

258. Children in domestic service frequently suffer from shingles, typhoid fever, gastroenteritis, parasitic diseases, vitamin A deficiency, acute respiratory infections, tuberculosis, meningitis, malaria, conjunctivitis, urinary infections, mycoses, STDs and increasingly from AIDS.[55]

259. Domestic servitude is a practice condemned by the public authorities. Formerly a permit had to be obtained from the IBESR in order to employ or take a child in domestic service. Nowadays the Institute objects de facto by not issuing any permits. Clearly it does not have the resources to exercise supervision over the living conditions experienced by these children.

260. The idea of the State adopting restrictive measures to prohibit domestic servitude has the advantage that it is straightforward with regard to the Convention. However, such measures would have no effect at all unless accompanied by supplementary measures to enable parents to meet certain everyday requirements, because the families that place their children in domestic service do so because they lack the means to meet the children's needs. As a result, domestic service often seems to them like a step up the social ladder.

261. The public authorities are considering ways of making Haitian society more aware of this problem. It has already been suggested that domestic service should not be included in the Labour Code that Parliament is due to adopt shortly.

B. Children in conflict with the law

Administration of juvenile justice

262. The administration of juvenile justice is governed by the Act of 7 September 1961 and the decree of 20 November 1961.[56] The juvenile court has been established within the jurisdiction of each appeal court since 1961. A juvenile court judge is assigned to each civil court (there are 15 such courts throughout the country); there is also provision for examining magistrates and government commissioners. Moreover, there is a juvenile assize court that hears cases concerning crimes committed by minors who have reached the age of 16; those under 16 are tried by the juvenile court.

263. The law has now put an end to the former procedures whereby minors arrested for a serious offence or a crime were referred to the criminal courts of general jurisdiction.

264. Nevertheless, Haitian legislation establishes the principle of exemption from criminal liability of minors under 13 years of age, and sets the age of criminal majority at about 16 years. Between 13 and 16 years a minor who has committed a minor offence will be liable to a simple reprimand or a fine. A minor who has committed a serious offence or a crime will be punishable by an educational measure or, if appropriate, by a criminal sentence, whereby the juvenile court has discretion, by a reasoned decision, to reject the mitigating excuse of minority.

265. Article 51 of the Criminal Code stipulates, however, that when the circumstances of the case or the personality of the accused minor so require, mitigated responsibility may be recognized. In this case, the minor may receive a sentence of eight years of treatment in a State corrective education centre or a maximum of three years in a specialized professional centre.

266. In the case of a serious offence or crime, the juvenile court will take measures for the protection, supervision or education of children under 11 years of age.

267. In no case will the minor be subjected to corporal or ignominious punishment or to inhuman or degrading treatment. The death penalty has been abolished in all cases by the Constitution (art. 20).

268. In practice there are difficulties in implementing the administration of juvenile justice. First of all, there is only one juvenile court and only three examining magistrates for minors have been appointed for the entire country. Furthermore, the IBESR, which assists the juvenile court in monitoring placement in re-education and resettlement centres, has no means of taking action: there is no remand home and no centre for protection in general, because in respect of criminal law the minor benefits as a priority from the principle of exemption from liability. In respect of a minor the juvenile court can only take measures of supervision, placement and reparation.

269. Because of the lack of remand homes for child offenders, the authorities generally have to keep them in detention centres. This practice violates domestic law on the subject and also article 37, paragraphs (b), (c) and (d) of the Convention. It is also a highly unsuitable measure in that the prison environment provides no protection whatsoever for the minor, because it lacks any facilities for the care and supervision of children.

270. On leaving prison the minors return to their natural environments (family or street, for example) or are entrusted to the IBESR to find a hostel for resettlement or rehabilitation.

271. Action by the public authorities to solve these problems is inevitably very sporadic on account of the limitations on resources of all kinds. However, the concern of the Government to tackle them is evident in the establishment of the Interministerial Commission on the Rights of the Child, which has the task of drawing up a strategy for the control of juvenile delinquency in Haiti. The reform of the IBESR by providing it with new means of action and the reform of the prison system are already being undertaken as a result of the recommendations of the National Commission for Administrative Reform. All these efforts can be expected to lead to an improvement in the administration of juvenile justice.

C. Child victims of exploitation

1. The labour situation

272. The age at which children may enter paid employment is fixed at 15 years by the Labour Code, but a permit must be obtained from the Labour Department of the Ministry of Social Affairs before any child is employed.

273. Children in paid employment are covered by the provisions of the Labour Code, which protects them against the misdeeds of employers. The Labour Tribunal is empowered to settle any dispute between employers and employees.

274. Children who are victims of exploitation in their working conditions receive no special care or rehabilitation from the State. Some private institutions such as the Foyer Maurice Sixto look after children in domestic service in collaboration with the State, although some families are systematically opposed to this.

275. It goes without saying that the State does not have the resources to take immediate action to end this unhealthy situation of child labour and lack of rehabilitation facilities. However, the Government has already taken some steps and supported the ILO resolution recommending the elimination of child labour.

2. Drug victims

276. The illicit use of narcotic drugs is a serious offence under Haitian law. A minor who is a victim of this situation should normally receive medical and social care under the supervision of a panel of physicians, within the family if he or she is recognized as an occasional user. A minor who is a drug addict will undergo detoxification treatment and then return to the family if he or

she is under 16 years of age. Above that age minors are referred to the Government Procurator's Office and are treated, prosecuted and tried. Here again there are the same problems of resources for the care of the children and the State is unable to deal with them despite all the legislative provisions.

277. In the case of minors trafficking in drugs, protective measures are adopted on their behalf (supervision, placement and reparation) if they are under 16 years of age. Minors over 16 years of age are liable to a penalty ranging from 3 to 15 years' penal detention and a fine ranging from 250,000 to 2 million gourdes. In the case of import, export, transit, production and illicit manufacture, the trafficker is punishable by penal detention from 5 to 20 years and a fine ranging from 500,000 to 10 million gourdes.

3. Sexual exploitation and sexual abuse

278. Haitian legislation refers to rape, indecent assault and corruption of a minor. These acts are crimes punishable in accordance with criminal law, that is, with the penalty of imprisonment.

279. However, there are aggravating circumstances when these acts are committed on the person of a child. The perpetrators are then liable to a penalty of forced labour for a period ranging from 3 to 15 years. When such acts are committed by persons holding authority over the victim, the penalty is a sentence to forced labour for life.

280. There is a lack of information on child prostitution and the possibility of sexual tourism in Haiti. However, in order to protect children against such practices, criminal law recognizes the serious offence of incitement of minors to immorality in respect of "anyone who infringes morals by inciting, encouraging or habitually facilitating the immorality or corruption of young people of either sex under the age of 18 years".[57] This offence is punishable by imprisonment from six months to two years.

281. Children who are victims of such practices should receive special support for the purposes of their rehabilitation and resettlement. Here the courts lay the responsibility upon the perpetrator of the acts for ensuring that adequate care is provided for the victims. The IBESR is the State structure responsible for assisting such children. As things are at present, however, the lack of resources hampers the Institute in its activities on their behalf.

282. There is also a lack of information on child victims of AIDS. These children receive treatment in all health centres. If they are orphans, they are taken care of at their own request by the IBESR, which places them in reception centres (in particular, the Maison Arc-en-ciel).

4. Theft, sale and abduction of children

283. The abduction and receiving of a child, concealment of the birth of a child, the substitution of one child for another and the attribution of a child to a woman who is not the biological mother are crimes punishable by imprisonment.[58] It is a crime if a child is abducted with concealment of the child's real identity; if the child's identity is preserved, the crime is simply described as abduction of a minor.[59]

284. Indications of the sale and trafficking of organs of Haitian children abroad have motivated the Government to adopt measures to control and, if necessary, prohibit the departure of Haitian children abroad in the company of persons other than their father and mother. In appropriate cases, a permit signed by the Minister of Social Affairs must be obtained from the IBESR in order to permit the child to travel with another person or an air hostess.

VII. CONCLUSION

285. The accession of the Haitian State to the Convention on the Rights of the Child has not sufficed to ensure the implementation of the Convention. Application has suffered from the repercussions of political developments characterized by instability on the one hand and attempts at administrative reform on the other.

286. In 1995 Haiti was just emerging from a lengthy crisis caused by the military coup d'état of 1991. On the return to constitutional rule in the last quarter of 1994 the Government of the Republic, which was concerned with restoring order, had little opportunity to confront the problems of all kinds that were awaiting it. The change of government in 1995 only led to the postponement of some policies already initiated.

287. The new Government that came into office early in 1996 continued the work of its predecessor, which consisted of putting public affairs in order. It then embarked upon an extensive programme of State modernization and in particular set up the National Commission for Administrative Reform, one of the major tasks of which was to redefine the objectives of the State.

288. The Commission submitted its reports in 1998. From then until the present time it has been working with the various State institutions in order to put its recommendations into operation. In 1999 a new institutional crisis arose when Parliament was dissolved. The absence of a Parliament cast a shadow over the political and administrative landscape because for a very long period it prevented the formation of a new Government. It then fell to the resigning Government to continue for more than a year to deal with everyday business.

289. This context of political turbulence has never enabled the successive governments to integrate all the provisions of the Convention systematically into the State strategies. In the traditional activities of the State in the social domain, concerned with the welfare of all, especially the Haitian child, the application of the Convention has always been watered down.

290. Nevertheless, the advances or achievements recorded since the ratification of the Convention illustrate and strengthen the position of the Haitian State, which can be seen to be closely involved in building the destiny of the country's children.

291. At the present time there is a widespread desire in the country to bring the issue of the rights of the Haitian child to the forefront, naturally with the support of the Convention. Excellent results must be expected in the years to come in view of the determination shown on this issue by the State.

Notes

[1] Haitian Institute of Statistics and Computing (IHSI), Statistical Yearbook of the Republic of Haiti, 1999. According to IHSI figures, the 0-14-year age group accounted for 40 per cent of the population in 1999 and the 15-64-year age group for 56.2 per cent of the population.

[2] Convention on the Rights of the Child, art. 44.

[3] General guidelines regarding the form and content of initial reports to be submitted by States parties under article 44, paragraph 1 (a), of the Convention, adopted by the Committee at its 22nd meeting (first session) on 15 October 1991.

[4] The National Commission for Administrative Reform was established by the President in 1996. It published a summary report in 1998, entitled "Administrative reform in Haiti", in which it makes highly relevant recommendations to the Government.

[5] "The voice of boys, girls and young people in Latin America and the Caribbean" is the title of a survey carried out in 1999 by Time Research for the United Nations Children's Fund (UNICEF). According to the survey, carried out on a sample of 287 children from all over the country, 70 per cent of the children in Haiti say they know very little or nothing about children's rights (p. 10).

[6] In practice, things do not happen like this: people marry without taking this authorization into account or requesting it.

[7] Decree of 8 October 1982, art. 15.

[8] The State has an absolute obligation to guarantee the right to life and health of all citizens (Constitution, art. 19).

[9] Decree of 24 November 1983 on the organization and operation of the IBESR, arts. 123-124, *Le Moniteur* No. 82.

[10] Ibid., art. 127, on aid and assistance to needy families.

[11] Act of 20 August 1967 on the reorganization of the Ministry of Social Affairs; decree of 15 September 1988 on the civil retirement pension.

[12] Decree of 4 December 1983.

[13] Decree of 18 February 1975.

[14] Time Research group, op. cit., pp. 14-17.

[15] Haiti has 133 communes.

[16] Criminal Code, arts. 249-2, 254-2, 297 to 299.

[17] Decree of 24 November 1983, op. cit., art. 127 (Service for Aid and Assistance to Needy Families), *Le Moniteur* No. 82.

[18] Decree of 4 December 1983 on the Act organizing the Ministry of Social Affairs, arts. 138-144.

[19] *Le Moniteur* No. 32, 18 April 1974.

[20] Labour Code, arts. 320 and 331.

[21] Act of 14 September 1953.

[22] Symposium on the integration/reintegration of persons with disabilities. Port-au-Prince, 2-3 December 1999.

[23] Ministry of Public Health and Population, joint country report. Report of the health group, March 2000, p. 6.

[24] Haitian Child Institute/DHS, Haiti: Survey on Morbidity, Mortality and Use of Services (EMMUS II), 1994-1995, pp. 166-171.

[25] National Strategy for Comprehensive Child Care, citing EMMUS II.

[26] World Breastfeeding Week is celebrated annually across the country.

[27] Ministry of Public Health and Population/PAHO/WHO, Health situation analysis, 1998, updated in 1999, Port-au-Prince, 1999, p. 100.

[28] MSPP, National Strategy for Integrated Management of Childhood Illness (1997-2000).

[29] Ministry for Education, Young People and Sport, National Education and Training Plan, Port-au-Prince, May 2000, pp. 48-57.

[30] Ibid., pp. 58-68.

[31] Ministry for Education, Young People and Sports, Planning and External Cooperation Department, *Statistical Yearbook on Primary and Secondary Schools in Haiti,* Port-au-Prince, June 1998.

[32] Data for 2000 were supplied by the Planning Department of the Ministry for Education, Young People and Sport, and have not yet been published.

[33] No data are available on secondary-school teachers.

[34] Ministry for Education, Young People and Sport, Common Country Assessment, Educational Sector, March 2000.

[35] General budget of the Republic of Haiti, *Le Moniteur* No. 43, 5 June 1997.

[36] Ministry for Education, Young People and Sport, Common Country Assessment, op. cit.

[37] EDUCAT SA/PNE 2004, Technical diagnosis of the Haitian education sector, preliminary version, August 1995, p. 120.

[38] Ministry for Education, Young People and Sport, Common Country Assessment, op. cit., p. 12.

[39] Ibid., p. 24.

[40] Ministry for Education, Young People and Sport, National Education and Training Plan, op. cit., p. 23.

[41] Ibid., p. 24.

[42] Ministry for Education, Young People and Sport, Common Country Assessment,, op. cit., pp. 13-14.

[43] Ibid., p. 13.

[44] Ministry for Education, Young People and Sport, National Education and Training Plan, op. cit., pp. 30-32.

[45] Ibid., p. 24.

[46] General budget of the Republic of Haiti, 1996-1997 financial year.

[47] Dakar Framework for Action, Education for All: Meeting our Collective Commitments. Text adopted by the World Education Forum. Dakar, 26-28 April 2000.

[48] The SEJSSC does not deal with infants. Its literature refers to children aged 7 years and over.

[49] Carline Legros, Review of cultural facilities in the departments. Sectoral diagnosis. Ministry of Culture, Port-au-Prince, January 1999; Ministry of Culture, Master plan for culture, Port-au-Prince, January 1999.

[50] IBESR/UNICEF, Children in difficulties. Situation analysis, Port-au-Prince, 1991.

[51] Marine Bernier and Françoise Ponticq, Planning of interventions based on the patterns of social and economic organization of children and young people living and working on the streets in Haiti, including those living from prostitution, Quisqueya University, Port-au-Prince, 1999, p. 8.

[52] Ibid., p. 25.

[53] Ministry of Public Health and Population/PAHO/WHO, Analysis of the health situation, Haiti 1998, with update in 1999, Port-au-Prince.

[54] IPSOFA/UNICEF. Rèstavèk: children working as domestic servants in Haiti, UNICEF, Port-au-Prince, 1998, p. 7.

[55] Ministry of Public Health and Population/PAHO/WHO, op. cit., p. 59; 1999, p. 58.

[56] Act of 7 September 1961 on minors in relation to criminal law and the special juvenile courts. *Le Moniteur* No. 94 of 2 September 1961; decree of 20 November 1961 establishing the juvenile court. *Le Moniteur* No. 108

[57] Criminal Code, art. 282.

[58] Ibid., art. 294.

[59] Ibid., art. 300.